

**PERSONNEL POLICY: TABLE OF CONTENTS**  
**TOWN OF WATERBORO**

<b>SECTION 1.00</b>	<b>Preamble and Purpose</b>	
<b>SECTION 2.00</b>	<b>Employment</b>	
	Generally	2.1
	Equal Opportunity Employer	2.2
	Recruitment	2.3
	Employment Files	2.4
	Employment Classification	2.5
	Employee Evaluations	2.6
	Whistleblower Protection	2.7
	Anti-nepotism	2.8
<b>SECTION 3.00</b>	<b>Work Week &amp; Attendance</b>	
	Work Week	3.1
	Time Recording	3.2
	Overtime	3.3
	Attendance	3.4
	Snow Days	3.5
	Lunch & Break Periods	3.6
<b>SECTION 4.00</b>	<b>Compensation</b>	
	Payment Schedule	4.1
	Payroll Adjustments	4.2
	Deductions	4.3
	Deferred Compensation	4.4
	Garnishment of Wages	4.5
	Expense Reimbursement	4.6
<b>SECTION 5.00</b>	<b>Employee/Volunteer Conduct</b>	
	Generally	5.1
	Drug & Alcohol	5.2
	Driving Policy	5.3
	Loss of License or Certification	5.4
	Confidentiality	5.5
	Sexual Harassment	5.6
	Other Forms of Harassment	5.7
	Workplace Violence	5.8
	Complaint Procedures & Witness Obligations	5.9
	Workplace Safety & Injury Reporting	5.10
	Ethics & Conflicts of Interest	5.11
	Outside Employment & Solicitation	5.12
	Political Activity	5.13
	Gratuities/Gifts	5.14
	Smoking	5.15
	Municipal Property	5.16

<b>SECTION 6.00</b>	<b>Employee/Volunteer Discipline</b>	
<b>SECTION 7.00</b>	<b>Employee/Volunteer Grievance Procedures</b>	
	Grievance and Complaint Procedures	7.1
	Personnel Employee/Volunteer Appeal	7.2
	Terminating Employment	7.3
<b>SECTION 8.00</b>	<b>Benefits</b>	
	Vacation	8.1
	Holidays	8.2
	Sick Days	8.3
	Health Insurance	8.4
	Retirement	8.5
	Worker's Compensation	8.6
	Unemployment Insurance	8.7
	Social Security	8.9
<b>SECTION 9.0</b>	<b>Leaves of Absence</b>	
	Bereavement	9.1
	Family & Medical Leave (FMLA)	9.2
	Leave Without Pay	9.3
	Jury Duty	9.4
	Military Leave	9.5
	Victims of Family Violence	9.6
	Emergency Disaster Volunteer Leave	9.7

*The municipality specifically reserves the right to repeal, modify or amend these policies as necessary. These policies are intended as informational guidance and the municipality reserves the right to interpret any provision and to change policies with reasonable notice when possible. These policies are not to be interpreted as promises of specific treatment or as creating any contractual rights with any employee/volunteer. In addition, conflicting changes in local, state or federal laws take precedence over the contents of personnel policies, whether or not those changes were incorporated into the policy.*

## **PERSONNEL POLICY**

### **TOWN OF WATERBORO**

#### **SECTION 1.00      Preamble & Purpose**

##### **1.1 Preamble**

A. By action of the Town of Waterboro Board of Selectmen, the Personnel Policy (here after referred to as the "Policy") was voted into effect on July 14, 2003. This Personnel Policy is established as guidelines to assist in developing sound working relationships between the municipality and its personnel. These policies and subsequent modifications shall supersede any policy and/or rules made previously by the Board of Selectmen.

B. Elected officials and the Board of Selectmen in addition to all town committee members are not under the jurisdiction of the Personnel Policy. However, it is expected that these persons will utilized sound judgment in exercising their official duties and recognize relevant sections (e.g., Employee Conduct, Conflict of Interest, Harassment and Sexual Harassment, Confidentiality) of the Personnel Policy as a guide to performance of their duty to serve the Town and voters.

Per the Town of Waterboro Fire Department and Emergency Medical Services Ordinance (Oct. 28, 1997), Fire Department Officers (Art. 4(B)(4)) and Fire Department personnel (Art. 4(C)(5)) shall be subject to the Personnel Policy of the Town of Waterboro. All other municipal volunteers, to the extent relevant and appropriate, are subject to this policy.

## **SECTION 2.00 Employment**

### **2.1 Generally**

**A. Selection.** The employment of all personnel shall be the responsibility of the Board of Selectmen with input, as appropriate, from Department Heads and/or Personnel Director.

According to the Town of Waterboro Fire Department and Emergency Medical Services Ordinance, the Fire Chief shall be responsible for the recruitment, training, safety, discipline (under the direction of the Board of Selectmen) and the efficient functioning of the Department, its members and personnel.

**B. Application.** All applicants must submit a written application for employment. Selection procedures will include a completed application, reference checks, submission of resume for supervisory positions. All applicants are encouraged to provide a resume, in addition to interview(s). The municipality relies upon the accuracy of information contained in the employment application, as well as the accuracy of other data presented throughout the hiring process and employment. Any willful misrepresentations, falsifications, or material omissions in any of this information or data may result in the municipality's exclusion of the individual from further consideration for employment or, if the person has been hired, termination of employment.

**C. Tests.** The municipality may where appropriate require applicants to submit to interviews, tests and examinations which may include, among others, written tests, agility tests, pre-employment but post-offer physical and/or psychological examination(s) as permitted under state and federal law when job related.

**D. Probation period.** All employees are considered probationary for the first six (6) months of employment. The probationary period shall be considered an extension of the selection process. Probationary employees may be removed at any time during the probationary period without cause and without right to file a grievance. Probationary employees are not eligible to take vacation or personal time. New probationary employees accrue vacation and sick leave but are not eligible to use vacation until after their trial period is completed. Sick leave accrual is subject to Section 8.3 of this Policy. Employees promoted, transferred or rehired during the probation period, will accrue vacation and sick leave and are eligible to use vacation and sick leave.

### **2.2 Equal Opportunity Employer**

The Town of Waterboro is committed to providing equal employment opportunities to applicants and employees. The Town supports a policy of nondiscrimination in hiring, employment and personnel actions. Waterboro is committed to the principal that each individual is entitled to equal employment opportunities without regard to: religion, race, sex, marital status, age, color, ancestry, national origin, creed, political affiliation, veteran status, sexual preference, or physical or mental disability.

This commitment applies to recruiting, hiring, compensation, fringe benefits, staff development and training, promotion, termination, and all other conditions of employment. This policy will be made known to all entities that do business with the Municipality.

### **2.3 Recruitment**

The municipality shall employ the best-qualified persons who are available at the salary levels established for municipal employment. Taking time limitations into account, there shall be as wide a search for qualified candidates as is practicable. The character of the

recruitment and selection process for all positions will vary contingent on the position, but may include advertising and open competitive examination in addition to contact with state and other employment offices and contact with special sources of information. In appropriate circumstances, the municipality reserves the right to hire from within, without externally posting the job vacancy. It shall be the duty of the Board of Selectmen (or Fire Chief under the direction of the Board of Selectmen) to seek out the most desirable employees/volunteers.

## **2.4 Employment Files**

Employee files will be kept at the Town Hall in accordance to state and federal guidelines. A complete file will be kept in a secured area for each employee and will include items such as: verification of pay, hiring data, applications, resumes, reference letters, signed job descriptions, employee acknowledgement forms, probationary and annual review, letters of commendation and recognition, disciplinary actions, case notes and exit interview forms. Medical information, as well as Workman's Compensation information is part of the employee personnel file but, because of the confidential nature of such information, such material is kept in a secure location separated from the employee file.

An employee may, with reasonable notice to the Personnel Director and at a convenient time for the Personnel Director, review his/her employment file during regular working hours.

Employee files will be treated as confidential, to the extent permitted by law e.g. "Right to Know" mandates. Employee information is available only to the Selectmen, Personnel Director and Department Heads when appropriate.

Destruction of files for employees that have left the employ of the municipality shall occur according to state and federal guidelines.

## **2.5 Employment Classification**

**A. Probationary employees.** All new employees and every person promoted, transferred or rehired to a position are considered probationary for the first six (6) months of employment except in the case of police officers. Police officers pursuant to 30-A MRSA § 2701, upon being hired must complete an employment probationary period that lasts for at least one year after graduation from the Maine Criminal Justice Academy or the date the board waives the basic training requirement.

The probationary period shall be considered an extension of the selection process during which time employees will be subject to review and evaluation. In no case, except at times for police officers, will the probationary period be extended. If an employee's job is temporarily interrupted during the probationary period, upon return he/she will be required to complete the probationary period and may be given credit for the time already served. New probationary employees accrue vacation and sick leave but are not eligible to use vacation until after their trial period is completed. Sick leave accrual is subject to Section 8.3 of this Policy. Employees promoted, transferred or rehired during the probation period, will accrue vacation and sick leave and are eligible to use vacation and sick leave.

Probationary employees may be removed at any time during the probationary period without cause and without right to a hearing.

**B. Full-time.** A full-time employee works a normal workweek of 40-hours a week and on a continuing basis. Such employees are subject to all personnel policies and rules and receive all benefits for which they satisfy required eligibility criteria.

**C. Part-time.** An employee in this classification works less than the normal 40-hour workweek, but on a continuing basis. Part-time employees are subject to all personnel policies and rules however they are only entitled to a pro rata share of benefits. Benefits will be prorated according to the average hours per day and/or particular days of the week that are worked.

**D. Temporary employees.** Temporary employees, such as seasonal workers or "as needed" employees, work on a non-continuing basis, within a limited time frame usually not to exceed six (6) months. Temporary employees are subject to all personnel policies and rules but are not entitled to any benefits except those benefits required by law, including worker's compensation and unemployment compensation.

**E. Exempt employees.** Are employees, who by the nature of their work, meet the "executive administrative or professional" exemption requirements of the federal Fair Labor Standards Act (FLSA). Such employees are deemed exempt from the payment of overtime for hours worked in excess of forty (40) hours in any week.

**F. Non-exempt employees.** All hourly wage earning employees who do not meet the "executive administrative or professional" criteria as set by the FLSA and, who are not otherwise exempt, or partially exempt from the overtime requirement of the FLSA, are eligible to receive overtime compensation paid at time and one-half (1.5) for hours worked in excess of forty (40) hours during any week.

The Department Manager and the Personnel Director must preauthorize all overtime.

#### **G. Volunteers/Committee Board Members**

Given the distinct nature of volunteer status, the municipality reserves the right to alter the procedures contained in this policy as is deemed necessary by the Personnel Director and/or Board of Selectmen (or Fire Chief under the direction of the Board of Selectmen). The procedures contained shall serve only as a general guide to dealing with volunteers and may be altered on a case-by-case basis. Nonetheless, volunteers are expected to follow the rules of conduct contained in this policy.

### **2.6 Employee Evaluations**

**A. Generally.** Evaluations will relate directly to the employee's position, work habits and job performance. Once a written evaluation has been completed, the employee and person charged with performing the evaluation will meet to discuss the evaluation. Evaluations will remain on file. The employee's signature will be obtained which acknowledges review and understanding of the evaluation. Refusal to sign will be noted.

**B. Regular employees.** All regular employees (full-time and part-time) will receive a written evaluation annually, on or about their anniversary date. Non-exempt employees shall receive their evaluation from the Personnel Director or Department Head. The Personnel Director and the Board of Selectmen will evaluate exempt employees.

**C. Probationary employees.** Newly hired probationary employees shall receive a 3-month review, although probationary employees may be terminated without cause and without advance notice. The 3-month review period should serve to guide a new employee so that he or she can attempt to correct any faults or shortcomings in their performance.

### **2.7 Whistleblower Protection**

The Municipality strives to conduct its business with integrity and in strict compliance with all applicable federal, state and local laws and regulations. Accordingly, employees/volunteers are encouraged to bring to the attention of their Supervisor or the Personnel Director any actions of municipal officials or employees/volunteers that they believe may be improper or unsafe. The Municipality will not retaliate against any person who makes a report in good faith to either his Supervisor, the Personnel Director or to a regulatory body.

## **2.8 Anti-Nepotism**

No applicant shall be considered for employment in the same department where an immediate family member is already employed. This policy may be waived when the Board of Selectmen determines that such a waiver is necessary in order to recruit sufficient personnel to meet the Town's needs.

Such waivers shall be for a specific period of time and shall detail the position(s) covered. Waivers shall not create a grand fathered situation for future years. In a situation where the nepotism policy is waived, relatives shall not supervise one another and every effort shall be made to assign relatives to separate crews, shifts or Supervisors.

## **SECTION 3.00      Work Week & Attendance**

### **3.1 Work Week**

The regular workweek for payroll purposes begins Sunday and ends Saturday midnight. The Board of Selectmen shall set the actual hours for municipal employees.

### **3.2 Time Recording**

For purposes of public accountability, all employees, exempt or non-exempt must record actual hours of work as well as paid or unpaid leave on their time sheets. Falsification of time records is a breach of Town policy and may result in disciplinary action including the possibility of dismissal.

Time sheets are due no later than Noon on Monday. Employee's that fail to turn in timely time sheets may be subject to discipline.

### **3.3 Overtime**

**A. Exempt employees:** Exempt employees will not receive overtime pay, and are expected to work the number of hours required to perform the job. However, an exempt employee shall be entitled to one hour of compensation time for each hour worked in excess of their regular scheduled weekly hours. Compensation time may be accumulated up to sixteen (16) hours per calendar year. Compensation time will not carry over from one year to the other without approval by the Personnel Director. There shall be no payment for unused compensation time at the termination of employment for exempt employees.

**B. Non-exempt employees:** Any time worked by non-exempt employees in excess of forty (40) hours shall be compensated at an over time pay rate of time and one-half (1 ½). For the purpose of computing overtime, within any given week, only those hours spent on the job and actually worked will be used to calculate over time pay. Vacation, sick leave, bereavement leave, holiday, military/jury leave and all other leave will not be counted toward calculating overtime pay.

**C. Prior authorization.** Prior approval of the Department Head and Personnel Director is necessary to authorize employee overtime and compensation time. The Department Head and Personnel Director will exercise discretion in authorizing overtime (and/or compensatory time if applicable). Overtime shall be considered necessary only in critical situations where additional effort is needed to complete a task within a certain amount of time. Temporary adjustments (i.e., same workweek) in working hours or realignment of duties within the department should be considered as alternatives to the use of overtime.

### **3.4 Attendance**

Employees shall be at their respective places of work at the appointed starting time and remaining at work until the end of the scheduled workday. It is the responsibility of employees who may be late or absent from work to see that their immediate Supervisor is advised of the reason for lateness or absence with as much advance notice as possible. If an absence, which has not been previously arranged for becomes necessary, within two (2) hours of the beginning of the employee's normal starting time or sooner if practicable, the employee is expected to contact their Supervisor.

If an absence continues beyond one day, the employee is responsible for reporting in each day or providing the municipality with a physician's letter that contains the date the



employee is to return to work. (Refer to the Medical Leave section for information on extended sick leave reporting requirements.)

Repeated lateness, unexcused absences, absences without authorization or failure to return to duty within 24 hours may be cause for discipline and/or discharge.

### **3.5 Snow Days**

Employees may be excused from work due to snow days or severe weather at the discretion of the Personnel Director. Compensation for that absence will be considered as follows:

1. If the municipal building closes the doors to the public, effected employees will be compensated for the hours they normally would have worked at their normal rate of pay.
2. When the municipal building is open, if an employee does not report for work, is offered the opportunity to leave work early and does so or is late arriving, non-exempt employees will not be paid for the absence. If possible, they may be offered the opportunity to make up the time or to utilize accrued paid time.

Under the Fair Labor Standards Act, exempt employees are not subject to wage reduction due to inclement weather absences during a week where any regular work is performed. However, exempt employees are expected to demonstrate professionalism and good judgment with regard to the performance of their duties on such weeks.

3. Employees will be called when the municipal building is closed due to inclement weather.

### **3.6 Lunch & Break Periods**

Employees are entitled to half (½) an hour paid lunch/meal period. One fifteen (15) minute break the first half of the work shift and one fifteen (15) minute break the second half of the work shift is permitted. Break time may not be taken at the beginning or end of a work shift, or immediately before or after a lunch break. Break time can not be accumulated to be applied toward an alternate work schedule. Break time is calculated as the time the employee is away from his/her workstation; travel time is included from workstation. Break time is not limited to only time spent at the place break is taken.

## **SECTION 4.00      Compensation**

### **4.1 Payment Schedule**

The Town Treasurer, following the signing of the weekly expense warrant by the Selectmen, will issue payroll checks on Wednesday. Paychecks will be released only to the employee/volunteer whose name appears on the check unless other arrangements have been made by the employee/volunteer in writing.

### **4.2 Payroll Adjustments**

Salary or hourly rate adjustments are appropriated by Town Meeting and the rate of adjustment is approved by the Selectmen. Adjustments shall be made at the beginning of each fiscal year by the Town Treasurer as directed by the Selectmen.

### **4.3 Deductions**

Employees may request deductions from their pay for payments to a credit union, property taxes, etc. These requests will be made to the Treasurer in writing.

### **4.4 Deferred Compensation**

A plan for retirement purposes is available to all employees on a voluntary basis. All employee contributions shall be treated as pre-tax deductions on their payroll disbursement.

For information about this plan, please refer to the American Funds plan material, contact the American Funds representative, or the Personnel Director.

### **4.5 Garnishment of Wages**

The municipality encourages all employees to manage their personal finances accordingly but will comply with all state and federal laws that apply to garnishment of employee wages.

### **4.6 Expense Reimbursement**

Employees shall be reimbursed for reasonable and authorized expenses incurred while carrying out official Town business. Reimbursement for use of a personal vehicle for Town business shall be at the per mile rate established by the Board of Selectmen, and expenses for tolls, parking, meals, lodging, etc. will be reimbursed at cost. Employees must submit signed mileage sheet, approved by the Department Head for reimbursement.

## **SECTION 5.00      Employee/Volunteer Conduct**

### **5.1 Generally**

Our taxpayers are entitled to the best service we can give them. Cooperation and teamwork by all employees/volunteers is essential to efficiency. Courtesy and responsibility are the key elements of good service. All employees/volunteers are expected to conduct themselves accordingly.

### **5.2 Drug & Alcohol**

The Town is committed to providing a drug-free, healthful and safe work environment. The term "drug(s)" also includes alcohol and prescription drugs when they are taken other than how they are prescribed. This policy applies during an employee's/volunteer's assigned work hours, the Town premises and while conducting business-related activities off Town premises.

Employees/volunteers are required to report to work drug and alcohol free and free from the smell of alcohol. Job performance must be executed in a safe manner. The use, possession, distribution, dispensing, sale, or working under the influence is strictly prohibited. Those who violate this policy are subject to corrective discipline up to and including termination of employment.

Employees/volunteers seeking assistance for their substance abuse issues will be reasonably supported so that counseling appointments can be attended. Employees are accountable for their work performance whether they choose to participate in a substance abuse treatment program or not. Participation in a treatment program is voluntary and at the discretion of the employee.

The Town may discipline or terminate an employee/volunteer who is impaired or otherwise violates this policy or who exhibits an on-going performance issue.

Employees/volunteers using medication that may impair their work performance or pose a safety threat, should notify their Supervisor or Department Head. At the discretion of the Supervisor or Department Head with the approval of the Personnel Director, an employee/volunteer may be reassigned to a less hazardous task or be placed on sick leave if the impaired performance might pose a threat to oneself or others.

Employees who seek treatment may use their sick leave to attend a treatment program and may also be eligible for Family and Medical Leave Act (FMLA) or disability leave. Employees/volunteers are encouraged to discuss their questions or concerns regarding such leave with their Supervisor or Personnel Director.

Employees/volunteers must notify the Department Head or the Personnel Director as soon as possible but no later than within five (5) days after any conviction for a drug/alcohol related offense.

### **5.3 Driving Policy**

Any employee, volunteer, official or other person who drives municipal vehicles, or drives private vehicles on municipal business, must have a valid Maine driver's license and a satisfactory driving record. Any person hired for a position, which involves driving municipal vehicles or driving a private vehicle on municipal business, shall have his or her license checked annually for active status and accident/conviction history.

Any employee/volunteer cited or fined for a moving vehicle violation while on municipal time must report the event immediately to their Supervisor. If any employee's/volunteers's license is suspended or revoked while working for or providing services to the Municipality, such suspensions/revocations must be reported

within 24 hours to the Department Head. The Personnel Director shall determine the appropriate course of action, including reassignment of duties, leave of absence or discipline.

Any employee/volunteer driving a municipal vehicle, receiving mileage or other reimbursement from the Municipality for driving, or otherwise driving on behalf of the Municipality, shall wear seat belts at all times and shall require authorized passengers to wear seat belts. Unauthorized passengers such as family members, friends, etc. are not permitted without the authorization of the Department Head. The Personnel Director may implement such other policies, as is necessary to ensure a safe driving policy.

#### **5.4. Loss of License or Certification**

If it is a requirement for an employee/volunteer in a specific position to possess a valid license and/or class of license or certification, then it shall be a condition of employment for that employee/volunteer to maintain such license and/or certification. Failure to do so may result in re-assignment to an alternative position or job loss.

Employees/volunteers that loose their license or fail to obtain re-certification as necessary, must immediately inform the municipality of their new status.

#### **5.5 Confidentiality**

Many municipal employees/volunteers have access to confidential information pertaining to persons or property in the municipality. Employees/volunteers are prohibited from disclosing confidential information to **anyone** not having a need to know the information. The employees/volunteers must not use confidential or privileged information to their own private advantage or to provide family or acquaintances with private advantages. Employees/volunteers are charged with the responsibility of releasing, upon Personnel Director approval, only that information that is required under the "Right to Know" law.

#### **5.6 Sexual Harassment**

This Town is committed to promoting a workplace free from harassment. The Town of Waterboro recognizes the right of each employee, in addition to municipal volunteers, to work in an environment that is free from sexual harassment, including same sex harassment of employees, volunteers and or members of the public with whom the Town does business.

Harassment by Town employees/volunteers is prohibited and is considered unprofessional and unacceptable conduct. This policy specifically prohibits an employee or volunteer from engaging in any intimidating, insulting, coercive or harassing behavior that is sexual in nature.

Remember, sexual harassment is in the 'eyes of the beholder' and not the way it may have been intended.

Examples of such prohibitive conduct include but are not limited to:

- Any unwelcome sexual advance or contact
- Spoken or written comments about a person's sex
- Showing or displaying pornographic or sexually explicit objects or illustrations in the workplace or while performing duties for the Town
- Sexually offensive jokes, innuendoes, comments or visiting prohibited web sites
- Sexually oriented comments bout a person's body or behavior

- Repeated requests for a date

Sexual harassment is a form of sex discrimination and is prohibited by Title VII of the Civil Rights Act of 1964 and Maine law. Sexual harassment includes any unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:

- Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or participation in other Town activities
- Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual
- Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creates an intimidating, hostile, or offensive working environment; or
- Such conduct violates any statute, regulation, ordinance, or any policy

Any employee or volunteer determined to have engaged in harassment of any kind and/or violence shall be subject to disciplinary action up to and including discharge. Supervisors and Department Heads are responsible for monitoring the behavior of their employees/volunteers. Inappropriate behaviors must be dealt with immediately.

The Town will work with you to resolve your complaint promptly and fairly.

This policy applies to the workplace during normal business hours, to all work related social functions whether on or off Town premises, and to business related travel.

### **5.7 Other Forms of Harassment**

Because the Town of Waterboro recognizes that each employee/volunteer has the right to work in a "safe" environment, any form of intimidation, hostility, unprofessional or obscene language will not be tolerated. Harassment related to race, color, sex, national origin, age, religion, ability/disability will not be tolerated. Violations of this policy will lead to disciplinary action including termination of employment and may also result in criminal prosecution.

Examples include but are not limited to:

- Harassment related to race, color, sex, national origin, age, religion, ability/disability
- Ridicule, slurs, offensive jokes, or derogatory actions
- Verbal threats, threatening behaviors, intimidation, acts of violence
- Refusal to work with or cooperate with another employee or volunteer on work assignments
- Inequitable disciplinary actions or work assignments

Violators of this policy may be removed from the premises and made to remain off of Town premises until further notice pending the outcome of an investigation. Anyone who becomes aware of a potential threat must report it to his or her Supervisor or to the Personnel Director.

Supervisors and Department Heads are responsible for monitoring the behavior of their employee/volunteers. Inappropriate behaviors must be dealt with immediately.

This policy applies to the workplace during normal business hours, to all work related social functions whether on or off Town premises, and to business related travel.

### **5.8 Workplace Violence**

Workplace violence is defined for the purpose of this policy as a literal act of violence against another individual(s) or against municipal property or a threat of violence against another individual(s) or against municipal property. This includes the use of physical force, harassment, intimidation or abuse of power or authority against another person. Acts of violence in and around the workplace are unacceptable and will not be tolerated. All such conduct will be thoroughly investigated and appropriate measures will be taken against employees/volunteers determined guilty of such offenses.

Suspected violators may be removed from the premises and may be made to remain off of Town premises until further notice pending the outcome of an investigation. Anyone who becomes aware of a potential threat must report it to his or her Supervisor or to the Personnel Director.

Supervisors and Department Heads are responsible for monitoring the behavior of their employees. Inappropriate behaviors must be dealt with immediately. It is the responsibility of all employees, supervisory and otherwise, to foster a work environment of respect and healthy conflict resolution.

This policy applies to the workplace during normal business hours, to all work related social functions whether on or off Town premises, and to business related travel.

### **5.9 Complaint Procedures & Witness Obligations**

**A. Complaints.** If you believe you are being harassed, sexually or otherwise, we encourage you to complain promptly to your Supervisor, or to any member of management. You may also contact the Town Administrator, or the Chair Board of Selectmen at 247-6166.

The Town is dedicated to working with you to resolve your complaint promptly and fairly. If you believe you are being sexually harassed, you also have the right to file a complaint with the Human Rights Commission (MHRC) within six months of the unlawful act or unlawful discrimination. To file a charge or obtain more information on the procedure, you may contact the Commission by mail at 51 State House Station, Augusta, ME 04333-0051, or by telephone at (207) 624-6050. You can also refer to the end of this policy for a copy of the MHRC procedures for filing a complaint.

**If You Have Questions...**Please feel free to contact the Personnel Director in person or by telephone at 247-6166 if you have any further questions about what harassment/sexual harassment is, how our complaint process works, or about our policy against sexual harassment.

### **B. Witnessing Harassment**

If a Town employee/volunteer witnesses what he or she believes to be harassment (sexual or otherwise) or witnesses workplace violence, the individual has an obligation to report this conduct to his or her Supervisor or to the Town's Personnel Director.

Supervisory and management staff aware of any form of harassment or workplace violence must take immediate action to stop it. Allegations will be promptly and discreetly investigated. All employees or Town volunteers, who are asked, must cooperate in any such investigation and must maintain confidentiality regarding the investigation. All "good faith" reports can be made without fear of reprisal. Retaliation against witnesses or persons reporting such conduct in good faith is prohibited.

#### **5.10 Workplace Safety & Injury Reporting**

**A. Safety.** Employees/volunteers will receive safety training including proper use of equipment, fire procedures, incident reporting procedures, and any other information necessary for employees/volunteers to adhere to a safe operating procedure. To use safety equipment as needed for their jobs, and to avoid willfully putting themselves or the municipality at risk of injury or liability, each employee/volunteer is expected to obey safety rules and to exercise caution in all work activities. Employees/volunteers must immediately report any unsafe condition to his or her Supervisor or the Personnel Director. Material Safety Data Sheets (MSDS) are on file in the Selectmen's Office.

Employees/volunteers who violate safety standards, who cause hazardous or dangerous situations, or who fail to report or, where appropriate, remedy such situations, may be subject to disciplinary action, up to and including termination. All "good faith" reports can be made without fear of reprisal.

**B. Injury reporting.** When an employee/volunteer of the municipality suffers an injury or accident in the course of employment, **regardless of how insignificant the injury may appear**, a report of the accident must be made immediately to the employee's/volunteer's Supervisor or Personnel Director. Supervisors must, in turn, report the accident immediately to the Personnel Director so that any necessary accident and injury reports may be completed. Such reports are necessary to comply with laws and initiate insurance and Workers' Compensation benefits procedures.

**C. Safety committee.** Some employees by virtue of their job position will be required to participate in the Safety Committee: Town Administrator, Fire Chief, Health Officer, Transfer Station Attendant, Custodian, Town Clerk, Parks and Recreation Director, EMA Director, Road Commissioner, and Librarian.

#### **5.11 Ethics & Conflicts of Interest**

Municipal employees shall be covered by the requirements of 30-A M.R.S.A. § 2604 et seq. and the following: Representatives of the Town of Waterboro shall not knowingly participate in a conflict of interest situation without making a full disclosure to the Selectmen. A conflict of interest is any situation whereby the representative of the municipality serves to benefit, or can be perceived as benefiting, from the situation that is in his/her control. Examples may include contracts, appointments, purchases and sales. Selectmen have the right to take all steps necessary to ensure that a real or perceived conflict of interest situation is rectified.

#### **5.12 Outside Employment & Solicitation**

**A. Outside employment.** No employee may engage in additional employment that in any way interferes with the proper and effective performance of the duties of his position, results in a conflict of interest or subjects the Municipality to public criticism or embarrassment. If the Personnel Director determines that such outside employment is disadvantageous to the Municipality, upon notification in writing by the Personnel Director, the employee involved shall take prompt steps to resolve the situation.

Any full- or part-time employee who engages in employment outside of his regular working hours shall be subject to perform his or her regular municipal duties first. The Municipality shall not be liable for nor grant sick leave or disability leave in the case of any injury or occupational illness incurred by an employee/volunteer while engaged in outside employment.

**B. Solicitation.** No employee shall engage in any business other than regular duties of the Municipality during working time, including such activities as selling to fellow employees/volunteers, lending of money for profit, etc. With the exception of municipally approved activities, no solicitation of any kind is permitted on municipal premises during working time. Working time includes the working time of both the employee/volunteer soliciting, and the employee/volunteer to whom such activity is directed. Working time does not include break time. While on municipal premises during non-working time, such as breaks and meal times, employees/volunteers may engage in personal, business or social activities that are not disruptive to those who are working.

### **5.13 Political Activity**

No municipal employee shall participate in any political activity (including lobbying), which would be in conflict or incompatible or create an interference with the performance of his or her official functions and duties for the municipality.

### **5.14 Gratuities/Gifts**

A town employee/volunteer is prohibited from soliciting or accepting any gift, gratuity, favor, entertainment, loan or any other thing of monetary value from:

- any person who has or is seeking to obtain business with the town or,
- from any person within or outside town employment whose interests may be affected by the employee's/volunteer's performance or nonperformance of his official duties.

Acceptance of nominal gifts in keeping with special occasions, such as marriage, retirement or illness or food and refreshments in the ordinary course of business meetings; or unsolicited advertising or promotional materials, e.g., pens, note pads, calendars, is permitted.

In addition, Supervisors must avoid placing themselves in a position that could interfere with, or create the impression of interfering with, the objective evaluation and direction of their subordinates. No Supervisor shall accept gifts from subordinates other than those of nominal value for special occasions, and no Supervisor shall borrow money or accept favors from any subordinate.

### **5.15 Smoking**

The municipality supports a smoke free work environment. Smoking is not permitted inside any town-owned buildings.

### **5.16 Municipal Property**



Employees and Town volunteers should not, directly or indirectly, use or allow the use of municipal property of any kind for other than official activities. Certain nominal use of municipal property may be permitted at the discretion of the Board of Selectmen so long as such use does not interfere with municipal operations. All Town property issued to the employee/volunteer such as keys, equipment, etc. shall be returned to the Town, in good repair, prior to the employee's/volunteer's last day. Failure to return Town property may result in private legal action against the employee/volunteer.

Employees/volunteers should not use the telephone facilities for personal calls when the placing of such calls would interfere with the employee's/volunteer's duties, would incur additional financial liability for the municipality or would interfere with the use of the facilities for official business. Any such use should be urgent, infrequent and of short duration.

## **SECTION 6.00      Employee/Volunteer Discipline**

Disciplinary action usually begins with the Department Head who documents performance problems. Contemplated disciplinary action must be reviewed with the Personnel Director and Fire Chief as appropriate.

Disciplinary action up to and including dismissal may be initiated for reasons that include, but are not limited to the following:

- Absenteeism and/or tardiness
- Insubordination
- Unacceptable job performance
- Use of alcohol and/or non-prescriptive drugs during the work day or in any way which impairs the performance of the position
- Willful destruction of public and/or private property
- Falsification of documents, concerning the employee's application to the Town, payroll or other departmental operations
- Harassing behavior including obscene language directed at employees, volunteers or the public
- Failure to comply with safety regulations and requirements
- Dishonesty of any kind or theft of Town, public or private property
- Acceptance of money or any gift by an employee/volunteer for any consideration afforded to the public, in general
- Any other action or conduct materially affecting or impairing the efficiency of Town services or that brings the Town in public dispute or embarrassment

The disciplinary process may include, but is not limited to the following procedures.

**A. Verbal Warning.** The Department Head may verbally warn an employee/volunteer to improve specific performance issues or to rectify specific conduct. The date, time and nature of the warning shall be noted in the employee's personnel file. When possible, warnings should be given within two (2) days of the knowledge of the offense. The municipality reserves the right to move to a written warning, suspension or termination depending on the seriousness of the situation.

**B. Written Reprimand.** The Department Head may give a written reprimand to an employee/volunteer for a repeated offense, or for an offense serious enough to require more than a verbal warning. A reprimand will include the nature of the offense, date and time of the offense, possibility of future disciplinary action and steps for correction of the action. A copy of the reprimand signed by the Department Head and the employee/volunteer will be placed in the employee/volunteer personnel file. If the employee/volunteer refuses to sign the reprimand, this fact should be noted and witnessed on the reprimand. The municipality reserves the right to move to suspension or termination depending on the seriousness of the situation.

**C. Suspension.** The Personnel Director and the Board of Selectmen (or Fire Chief under the direction of the Board of Selectmen) may suspend an employee/volunteer with or without pay for a recurring offense or an offense which merits suspension. Suspensions will be consistent with FLSA requirements. The municipality reserves the right to move to termination depending on the seriousness of the situation.

The employee/volunteer will have the opportunity to respond to the charges prior to serving the suspension unless the employee's/volunteer's actions are a threat to self or others. The employee's/volunteer's opportunity to respond to the charges may occur at a meeting with the employee/volunteer held to discuss the reasons for the suspension. The length of suspension is based on the seriousness of the offense and

what the Personnel Director and the Board of Selectmen (or Fire Chief as appropriate and under the direction of the Board of Selectpersons) may determine is warranted.

Employees/volunteers will receive confirmation of their suspension period and the necessary corrective steps. Employees/volunteers will be warned of the potential for more serious disciplinary action or dismissal in the event of further offenses. A copy of the letter of suspension will be included in the employee's/volunteer's personnel file. Suspension with or without pay may occur for an indefinite period pending complete investigation of the incident or offense.

**D. Dismissal.** The Personnel Director with the approval of the Board of Selectmen may dismiss an employee if his or her job performance or misconduct warrants dismissal. After a meeting between the employee, Department Head, and Personnel Director, the employee shall be notified of the reason(s) for the dismissal and the effective date thereof. Dismissals shall be confirmed by the Board of Selectmen in writing prior to the effective date of dismissal.

Notwithstanding the above, according to the Fire Department and Emergency Medical Services Ordinance (Art. 4(C)(2)), Fire Department personnel may be terminated by the Fire Chief for just cause, after notice to the employee. Terminations for just cause are subject to review, at the request of the terminated Fire Department employee, by the Board of Selectmen. Any such request for review shall be submitted to the Board of Selectmen within seven (7) days of termination

**E. Volunteers.** Given the distinct nature of volunteer status, the municipality reserves the right to alter the procedures contained in this policy when dealing with volunteers. The procedures herein contained shall serve only as a general guide to dealing with volunteers and may be altered on a case-by-case basis.

## **SECTION 7.00      Employee/Volunteer Grievance Procedures**

The Town recognizes that situations may arise in which an employee/volunteer believes that they have been treated unfairly in accordance to the Town's policies and procedures. The employee/volunteer should attempt to resolve the problem or complaint with their immediate Supervisor or Department Head as appropriate. If the matter cannot be resolved, they may file a formal complaint.

### **7.1 Grievance and Complaint Procedure**

The purpose of the complaint procedure shall be to settle employee/volunteer complaints at the lowest practical level and as quickly as possible, promoting efficiency and good employee morale. The following procedures shall apply:

- A. Complaints must be filed in writing with the Personnel Director, as soon as possible but, no later than within thirty (30) days after the incident or complaint has occurred.
- B. The complaint of the aggrieved employee/volunteer must clearly state the specifics of the complaint. Once having received the complaint, the Personnel Director may find it necessary to meet with the employee/volunteer to discuss the matter. The Personnel Director shall render a written decision within seven (7) working days when practical, or within a reasonable amount of time depending on circumstances.
- C. If the decision is unacceptable to the aggrieved employee/volunteer, he or she may request a meeting with the Board of Selectmen. Following the written request, a meeting shall be held within seven (7) working days when practical, or within a reasonable amount of time to ensure the availability of the Board of Selectmen. The Board of Selectmen shall render its decision in writing within seven (7) workdays, or within a reasonable amount of time depending on circumstances.
- D. In the event an employee/volunteer is unsatisfied with the Board's decision, he or she may file an appeal with the Town's Personnel Appeal Board consistent with Section 7.2 of this policy.
- E. Notwithstanding the above, terminations of Fire Department personnel are subject to procedures established in the Fire Department and Emergency Medical Services Ordinance (Art. 4(C)(2)).

### **7.2 Personnel Employee/Volunteer Appeal**

The Board of Selectmen shall appoint from among the qualified voters of the Town a Personnel Appeals Board consisting of five (5) regular members and two (2) alternate members to serve staggered terms of three (3) years. A quorum of the Personnel Appeals Board shall consist of three (3) members and every decision shall require the affirmative vote of at least three (3) members.

An appeal must be filed in writing with the Personnel Director within ten (10) working days of the Board of Selectmen's decision, which is the subject of the appeal pursuant to Section 7.1.

Upon receipt of a notice of an appeal, the Personnel Appeals Board shall meet with the Town employee, Department Head, or other representative (if warranted) within ten (10) working days if practical, or shortly thereafter. The Board may request and is entitled to receive all written materials pertaining to the grievance or disciplinary action, which is the subject of the appeal. After consultation with the parties, the Board in the exercise of its discretion shall conduct such hearing(s) as it deems to be necessary, provided that such hearings shall be held as soon as practical after the initial meeting with the parties.

The Board may adopt rules and regulations deemed to be necessary for the transaction of its business.

The Board shall issue a written decision within thirty (30) days when possible, following the conclusion of all hearings held on the appeal, unless the parties to an appeal mutually agree in writing to extend the time period for the issuance of a decision. The Board may affirm, modify or reverse the disciplinary action taken against the employee/volunteer initiating the appeal. The decision of the Board shall be final.

### **7.3 Terminating Employment**

**A. Generally.** Employees may leave a job in a variety of ways including resignation, retirement, layoff, or discharge. When possible, a meeting with the Personnel Director will be conducted prior to the employee's last day. The purpose of the meeting(s) is to provide information regarding any benefits that are due to the employee, such as insurance coverage, and unused vacation. In addition, employees still in possession of municipal property are expected to return the property at this time. All Town property such as keys, equipment, etc. issued to the employee shall be returned to the Town in good condition prior to the employee's last day. Documentation of the meeting will be performed by the Personnel Director and will become part of the employment file.

**B. References.** Reference requests should be submitted in writing to the Personnel Director. The Town will provide the following information on employment inquiries: Verification on dates of employment; job title and a description of duties. Further information will not be provided without a written release from the employee. No additional information will be furnished unless it falls within the guidelines of state and federal regulations governing public information about municipal employees.

**C. Resignations/Retirement.** Exempt staff is encouraged to provide at least one (1) month's notice of resignation. Non-exempt staff is encouraged to provide two (2) weeks of notice of resignation. Written notice should be provided to the Department Head who will then bring it to the attention of the Personnel Director. The Department Head will prepare a plan to ensure continuing coverage of the departmental work and will work with the Personnel Director to identify benefits owed the employee and to begin the recruitment process. All Town property such as keys, equipment, etc. issued to the employee shall be returned to the Town in good condition prior to the employee's last day.

**D. Lay-Offs.** Funding for some positions may change due to Town Meeting appropriations. Employees may face lay-offs due to many reasons including restructuring or budgetary reasons. The normal termination process outlined under 7.3 A, will be followed when possible.

**E. Discharge.** An employee may be discharged for a number of reasons, refer to Section 6.0.

## **SECTION 8.00      Benefits**

### **8.1 Vacation**

Eligible employees will earn paid vacation consistent with the following schedule:

<u><b>Years of Service</b></u>	<u><b>Annual Hours</b></u>
Less than 5 years	80 (2 weeks)
5-14 years	120 (3 weeks)
15-19 years	160 (4 weeks)
Over 20 years	200 (5 weeks)

Eligible employees will accrue paid vacation each calendar year beginning January 1<sup>st</sup> and ending on December 31.

Vacation time may not be carried over to the next calendar year without prior approval from the Personnel Director but, in no event can more than forty (40) hours of vacation time carry over into the next calendar year. Employees must request vacation time from the Department Head at least two (2) weeks in advance to ensure appropriate staff coverage during the vacation period.

If an employee is absent from work, accrued sick time and/or vacation time must be used. Employees may be allowed to take unpaid leave, when approved by the Personnel Director, in cases where paid leave time has been exhausted.

When an employee terminates employment with the Town of Waterboro, they will receive whatever vacation pay they have accrued.

### **8.2 Holidays**

Holiday pay is available to eligible exempt and non-exempt regular employees. Employees who do not work a full week will be paid holiday pay only if the holiday falls on the day the employee was scheduled to work. Compensation for holidays will be based upon the number of hours that the employee would have worked if the holiday occurred on a regular workday. Holidays within vacation time are not considered a vacation day. Eligible holidays are as follows:

- New Years Day
- President's Day
- Martin L. King's Day
- Patriot's Day
- Memorial Day
- Independence Day
- Labor Day
- Columbus Day
- Veteran's Day
- Thanksgiving Day
- Day after Thanksgiving
- Christmas Day

Employees will also be paid for half (½) day before New Year's Day and half (½) day before Christmas if the holiday falls on Tuesday through Friday and if the employee is non-exempt. The offices will be closed on Fridays when the holiday is on a Saturday, and on Monday when the holiday falls on a Sunday.

### **8.3 Sick Days**

Paid sick leave for each regular employee is earned at the rate of one (1) day for each calendar month of service in proportion to the hours worked and may accumulate to no more than 180 days. Part time employees will receive a prorated amount of sick days. Sick days are available in ½ day increments. This time cannot be used for vacation time. Sick days cannot be used the day before or the day after a holiday. Employees absent from work on the day before or after a holiday may be requested to provide a physician's note certifying that the reason for the absence was illness

Sick leave may be granted for any of the following reasons: Personal illness or injury of a nature sufficient to justify absence from work; personal medical or dental appointments that cannot be scheduled other than during working hours.

After three (3) consecutive days of sick time, the Personnel Director may require a certificate from a qualified physician to justify continued absence and/or return to work. The municipality may request a physician(s) letter(s) certifying "fitness for duty" prior to an employee's return to duty after an extended or serious medical/psychiatric leave or where a "safety" issue presents itself.

New probationary employees shall not be entitled to paid sick leave until they have completed ninety (90) days of employment. At the completion of ninety (90) days employment, probationary employees' cumulative sick leave days shall be computed from the original date of employment.

Employees who are found to abuse or fraudulently use sick leave will be subject to disciplinary action up to and including termination.

If an employee is absent from work, accrued sick time and/or vacation time must be used. Employees may be allowed to take unpaid leave, when approved by the Personnel Director, in cases where accrued paid leave time has been exhausted. Upon cessation of employment with the Town, employees will not receive accrued sick day pay.

### **8.4 Health Insurance**

**A. Medical and Dental:** The Town participates in the Maine Municipal Employees Health Trust and covers the cost for the single subscriber rate for all eligible employees requesting the coverage. Only full-time and part-time employees are eligible for coverage.

**B. Life and Disability Insurance:** Life Insurance is provided at no extra cost, as part of the individual Health and Dental Benefits package paid for by the municipality for full-time employees. The basic policy is a death benefit in the amount of the employee's annual salary. Disability insurance is available through MMA for all employees on a self-pay basis, and pays disability leave benefits up to one (1) year.

### **8.5 Retirement**

The Town does contribute to a retirement fund for employees. All employee contributions shall be treated as pre-tax deductions on their payroll disbursement.

### **8.6 Worker's Compensation**

This program protects employees against income losses caused by job-related injuries and occupational disease. The Town's Workmen's Compensation carrier is Maine Municipal Worker's compensation Fund. Report filing, processing, and review are governed by State guidelines. Employees are required to **immediately** report any incident or accident to the Department Head, or in the absence of a Department Head, to the Personnel Director or Selectmen **regardless of how minor the injury**. All injuries will be reported to Maine Employer's Mutual and the Selectmen within twenty-four (24) hours of the incident.

### **8.7 Unemployment Insurance**

The Town provides unemployment compensation benefits to employees in accordance with state and federal law.

### **8.9 Social Security**

The Town participates jointly with employees in making Social Security payments. Benefits provided include a retirement feature; survivor's benefits payment if death occurs before retirement, disability insurance and Medicare coverage.



## SECTION 9.0

## Leaves of Absence

### 9.1 Bereavement

Eligible employees with a death in their immediate family are permitted time off with pay from scheduled work to attend to immediate family matters and deal with their loss. This policy outlines the amount of time provided and under what circumstances payments will be made.

- An employee may be eligible to be paid for up to five (5) days of their scheduled work days/shifts within a seven (7) day schedule following the death of a spouse, significant other (when approved by the Personnel Director), or dependent.
- An employee may be eligible to be paid for up to three (3) days of their scheduled work days/shifts within a seven (7) day schedule following the death of an immediate family member father, mother, brother, sister, father-in-law, mother-in-law, step-parents, employee's grandparents.
- Additional time off may be granted, on a case by case basis, by the Personnel Director as paid leave if the employee has accrued leave, or as time off without pay. Temporary employees may be granted time off without pay.
- The Town recognizes that close family ties may exist other than those defined above. Under these special circumstances the Personnel Director may, on a case by case basis, allow the employee to use paid leave. Should no paid leave be available, the Personnel Director may grant time off without pay.
- Employees requesting pay under this policy may be required to submit a written statement to their Department Head indicating the name of the deceased and their relationship to the deceased. Additional documentation (obituary or other documents) may be requested authenticating the death as needed.

### 9.2 Family & Medical Leave (FMLA)

As provided by the 1993 Family and Medical Leave Act (FMLA), all eligible employees shall be entitled to take up to 12 weeks of unpaid, job-protected leave during any 12 month period for specified family and medical reasons.

**A. Covered Family and Medical Reasons.** An eligible employee shall be entitled to 12 weeks of unpaid leave during a 12-month period for one or more of the following reasons:

- 1) The birth or placement of a child for adoption or foster care;
- 2) To care for an immediate family member (spouse, child, or parent) with a serious health condition;
- 3) To take medical leave when the employee is unable to work because of a serious health condition.
- 4) A serious health condition, which shall be defined as an illness of a serious and long-term nature resulting in recurring or lengthy absences. Treatment of such an illness would occur on an inpatient situation at a hospital, hospice, or residential medical care facility, or would consist of continuing care provided by a licensed health care provider.

An employee may take leave if a serious health condition makes the employee unable to perform the functions of his/her position. Employees with questions about whether specific illnesses are covered under this policy or under the Municipality's sick leave policy are encouraged to meet with the Personnel Director.

**B. Employee Eligibility.** An employee shall be entitled to family leave when he/she meets the following criteria:

- The employee has worked for at least 12 months for the Municipality. The twelve months need not have been consecutive. If the employee was on the payroll for part of a week, the Municipality will count the entire week. The Municipality considers 52 weeks to be equal to twelve months.
- The employee has to have worked for the employer for at least 1,250 hours over the 12 months before the leave would begin.
- The employee must work in an office or worksite employing 50 or more employees, or there must be 50 employees within 75 miles of the office or worksite. In this municipality, all employees work within a 75-mile radius of City Hall.
- When both spouses are employed by the Municipality, they are jointly entitled to a combined total of 12 work weeks of family leave for the birth or placement of a child for adoption or foster care, and to care for a parent who has a serious health condition.

**C. Calculation of Leave.** Eligible employees can use up to 12 weeks of leave during any 12-month period. The Municipality will use a rolling 12-month period measured backward from the date an employee uses any FMLA leave. Each time an employee uses leave, the Municipality computes the amount of leave the employee has taken under this policy, subtracts it from the 12 weeks, and the balance remaining is the amount the employee is entitled to take at that time. For example, if an employee has taken 5 weeks of leave in the past 12 months, he or she could take an additional 7 weeks under this policy.

**D. Maintenance of Benefits.** An employee shall be entitled to maintain group health insurance coverage on the same basis as if he/she had continued to work at the Municipality. To maintain uninterrupted coverage, the employee will have to continue to pay their share of insurance premium payments. This payment shall be made either in person or by mail to the Selectmen's office by the 15<sup>th</sup> (fifteenth) day of each month. If the employee's payment is more than 30 days overdue, the Municipality will drop the coverage.

If the employee informs the Municipality that he/she does not intend to return to work at the end of the leave period, the Municipality's obligation to provide health benefits ends. If the employee chooses not to return to work for reasons other than a continued serious health condition, the Municipality will require the employee to reimburse the Municipality the amount the Municipality contributed towards the employee's health insurance during the leave period.

If the employee contributes to a life insurance or disability plan, the Municipality will continue making payroll deductions while the employee is on paid leave. While the employee is on unpaid leave, the Municipality will request that the employee continue to make those payments, along with the health care payments. If the employee does not continue these payments, the Municipality will recover the payments at the end of the leave period, in a manner consistent with the law.

Certain types of benefits will not accrue during the leave period consistent with the Municipality's benefits policy. However, the use of family or medical leave will not be considered a break in service when vesting or eligibility to participate in benefit programs is being determined.

**E. Job Restoration.** An employee who utilizes family or medical leave under this policy will be restored the same job or a job with equivalent status, pay, benefits and other employment terms.

The Municipality may choose to exempt certain highly compensated, "key" employees from this job restoration requirement and not return them to the same or similar position at the completion of FMLA leave. Employees who may be exempted will be informed of this status when they request leave. If the Municipality deems it necessary to deny job restoration for a key employee on FMLA leave, the Municipality will inform the employee of its intention and will offer the employee the opportunity to return to work immediately.

**F. Use of Paid and Unpaid Leave.** If an employee has any accrued paid leave (e.g., sick leave, vacation) the employee will use paid leave first and take the remainder of the twelve weeks as unpaid leave.

**G. Intermittent Leave and Reduced Work Schedules.** In certain cases, intermittent use of the twelve weeks of family or medical leave or a part of a reduced workweek may be allowed by the Municipality. Employees wishing to use leave intermittently or to utilize a reduced work week for birth or adoption purposes will need to discuss and gain approval for such use from the employee's Department Head and the Personnel Department.

Employees may also use family or medical leave intermittently or as part of a reduced workweek whenever it is medically necessary. If the need to use leave is foreseeable and based on preplanned and prescheduled medical treatment, then the employee is responsible to schedule the treatment in a manner that does not unduly disrupt the Municipality's operations.

In some cases, the Municipality may temporarily transfer an employee using intermittent or a reduced workweek to a different job with equivalent pay and benefits if another position would better accommodate the intermittent or reduced schedule.

## **PROCEDURES:**

**H. Procedure for requesting leave.** All employees requesting leave under this policy must complete the Family/Medical leave form available from the Personnel Department.

When an employee plans to take leave under this policy, the employee must give the Municipality thirty (30) days notice. If it is not possible to give thirty (30) days notice, the employee must give as much notice as is possible. An employee undergoing planned medical treatment is required to make a reasonable effort to schedule the treatment to minimize disruptions to the Municipality's operations.

While on leave, employees will be requested to report periodically to the Municipality regarding the status of the medical condition, and their intent to return to work.

**I. Procedure for Notice and Certification of Serious Health Condition.** On occasion, the Municipality may require the employee to provide notice of the need to utilize leave (where it is possible to know beforehand) and/or may require the employee to provide certification of an employee's or immediate family member's serious health condition by a qualified healthcare provider. The employee should try to respond to such a request within seven (7) days of the request, or provide a reasonable explanation for the delay.

Qualified health care providers include: doctors of medicine or osteopathy, podiatrists, dentist, clinical psychologists, optometrists, and chiropractors, nurse practitioners and nurse-midwives authorized to practice under State law and performing within the scope of their practice under state law; and Christian Science practitioners listed with the First Church of Christ, Scientist in Boston, Massachusetts.

When seeking certification of a serious medical condition, an employee should ensure that the certification form (Form WH-380) contains the following:

- 1) Date when the condition began; expected duration; diagnosis; and a brief statement of treatment.
- 2) If the employee is seeking medical leave for his/her own medical condition, certification should also include a statement that the employee is unable to perform the essential functions of the employee's position.
- 3) For a seriously ill family member, the certification should include a statement that the patient requires assistance and that the employee's presence would be beneficial or desirable.

- 4) If taking intermittent leave or working a reduced schedule, certification should include dates and duration of treatment and a statement of medical necessity for taking intermittent leave or working a reduced schedule.

If deemed necessary, the Municipality may ask for a second opinion. The Municipality will pay for the employee to get a certification from a second doctor, which the Municipality will select. If there is a conflict between the original certification and the second opinion, the Municipality may require the opinion of a third doctor. The Municipality and the employee will jointly select the third doctor, and the Municipality will pay for the opinion. The third opinion will be considered final.

### **9.3 Leave Without Pay**

If an employee is absent from work, accrued sick time and/or vacation time must be used. Employees may be allowed to take unpaid leave, when approved by the Personnel Director, in cases where paid leave time has been exhausted.

At the discretion of the Personnel Director, a full-time or part-time employee may be granted a leave of absence without pay, not to exceed sixty (60) days. The employee is expected to return to work at the end of this period. Employees may choose to continue insurance benefits during this leave by paying the full premium.

### **9.4 Jury Duty**

Regular employees chosen for jury duty will be released from their job duties for the time period of service, as determined by the court. The leave is not a benefit and the employee is expected to return to work immediately following release from jury duty. The Town will pay the difference between the employee's daily pay and the amount of daily pay for jury duty. The employee must present to their Department Head or Personnel Director an official statement of the jury pay received.

### **9.5 Military Leave**

The Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA) grants rights to civilian employees whose employment is interrupted for military service or training. USERRA applies to all types of "service in the uniformed services" defined as the performance of duty on a voluntary or involuntary basis in any of the uniformed services.

Employees are entitled to a leave of absence for up to five (5) years with each employer for authorized service and military training in the uniformed services. More than five (5) years may be required if necessary to complete a period of obligated service.

Under USERRA a person leaving a civilian job in order to enter military service or training is entitled to return to his civilian job after discharge or release from active duty if the following criteria are met:

Employees returning from military leave of absence are generally entitled to immediate or prompt reinstatement as long as:

- Advance notice was given of the need for the leave
- Cumulative service in the uniformed services is not more than five (5) years with the same employer (excluding certain active duty, training and other types of obligated service)
- He/She either returns to work or reapplies for employment within the time prescribed by USERRA
- He/She did not receive a dishonorable discharge
- The pre-service position was other than temporary

A Part-time or Full-time employee who is a member of the military reserves or in the National Guard, and who is required to undergo field training during normal work hours, shall be entitled to a leave of absence with differential pay for the period of such training.

- Differential pay is not to exceed two (2) weeks in any one (1) year. The Town will pay the difference between compensation for military activities as shown by a statement issued by military authorities giving his/her rank, pay and allowances and the amount of net straight time pay due as an employee of the Town. If the compensation for military service is equal to or greater than the net straight time salary or wages due as a town employee, then no payment will be made. Employees are entitled to unpaid leaves of absence to perform military duties to the extent required by law.

It is expected that the employee will return to work at the expiration of the approved leave. Should the employee be unable to return to work at the expiration of the Leave, it will be the employee's responsibility to request an extension from the Department Head.

#### **9.6 Victims of Family Violence**

The Town recognizes that an employee may find it necessary to protect themselves or an immediate family member from domestic violence. In doing so, all reasonable efforts shall be made by the employee to preserve employment and the Town will comply with the laws and by making a reasonable effort to work with an employee during the immediate crisis. Employees will be granted reasonable and necessary leave from work with pay to:

- a) Prepare for or attend court proceedings
- b) Receive medical treatment or to attend medical treatment for a victim if it is the employee's daughter, son, parent, spouse or in the same household
- c) To obtain necessary services resulting from domestic violence, sexual assault, stalking, or any act that would warrant an order of protection.

Unless to do so would:

- a) Result in the Town sustaining undue hardship from the employee's absence
- b) The request for leave is not communicated to the Personnel Director within a reasonable time under the circumstances
- c) The requested leave is impractical, unreasonable or unnecessary based on the facts that are made known to Personnel Director.

The Department Head or the Personnel Director must be notified of possible risks of violence, intimidation, harassment, etc. by the perpetrator of family violence so that measures may be taken to protect the victimized employee, staff, customers and property.

#### **9.7 Emergency Disaster Volunteer Leave**

Under Maine law (30-A M.R.S.A. § 2705) a municipal employee who is a certified disaster service volunteer of the American Red Cross, upon the request of the American Red Cross in order to participate in specialized disaster relief services for the American Red Cross may, with the approval of the legislative body of the municipality *or* municipal officers:

- Be granted leave not to exceed 15 days in each year without loss of pay, vacation time, sick leave or earned overtime accumulation;
- Be granted a leave using that employee's compensated time off, with the employee's consent;

- Be granted a leave using a combination of paid leave and compensated time off.

It is important to note that the relief services contemplated by this statute must be related to a disaster declared by the governor or state or territory or by the President of the United States.